

### REMARKS

The present communication responds to the Advisory Action of May 13, 2005 and the Final Office Action dated February 22, 2005. In that rejection, the Examiner rejected the claims over U.S. Patent No. 4,457,122 to Atkins. This rejection is respectfully traversed and reconsideration is requested because Atkins does not teach a positive-pressure packaging system having “a pressure source operably coupled with the dome for increasing pressure within the pressure chamber relative to the ambient pressure so that the open package is compressed against the product,” as required by independent claims 1 and 18.

#### Rejection Under 35 U.S.C. § 102

Claims 1-4, 6-9, and 18-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Atkins et al. (U.S. Patent No. 4,457,122). This rejection is respectfully traversed for at least the following reasons.

As explained in the Response to Final Office Action filed April 26, 2005, Atkins discloses a system for “vacuum packaging goods in heat shrinkable, thermoplastic bags in a vacuum chamber equipped with flexible, heated diaphragms that can be collapsed upon a filled bag to heat to shrinking temperature.” *Atkins, Abstract*. The system includes “a pair of identical diaphragms 18, which are fixed to the lips of the upper and lower platens 14 and 16.” *Atkins, Column 3, lines 33-36*. The diaphragms are moved towards and away from the food product. *Atkins, Column 3, lines 47-50*. The diaphragms press a bag against the food product and heat shrink the bag around the food product. A series of vacuum pressures are used to position the bag around the food product:

(7) The vacuum pressure  $V_D$  on the diaphragms is released or vented to atmosphere while the vacuum pressure in the chamber  $V_C$  continues. This causes collapse and shrinkage of the bag driven by the hot diaphragms onto the product, and is the condition shown in FIG. 4. *Atkins, Column 5, line 64 – Column 6, line 1*.

A pressure source is not coupled to the system for increasing pressure within the chamber. In fact, pressure within the chamber is never increased relative to the ambient pressure. Rather than a positive pressure, a vacuum pressure ( $V_C$ ) is maintained within the chamber in order to collapse the bag against the product.

In the Advisory Action, the Examiner states that she “still believes that Atkins’s applied vacuum is equivalent to pressure source relative to the ambient.” The Examiner provides no explanation for how a vacuum pressure could possibly be an equivalent to a positive pressure. The applicants respectfully submit that a vacuum pressure is *not* an equivalent to a positive pressure and, in fact, is *negative* pressure. A vacuum pressure is neither literally nor equivalently a positive pressure.

As stated at page one of the present application, vacuum packagers have been used to seal a variety of products wherein the vacuum packager generates a negative pressure within a bagged product that is inside a clamshell or platen with a dome chamber and wherein the bag is then heat-sealed closed while under the generated vacuum. Atkins teaches such a vacuum packager. Atkins does not teach a positive pressure packaging system.

Rejection Under 35 U.S.C. § 103

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Atkins et al. (U.S. 4,457,122). This rejection is traversed at least for the following reasons.

As discussed above in regards to the rejection of claims 1-4, 6-9, and 18-20 under 35 U.S.C. § 102(b) as being anticipated by Atkins et al., the applicants respectfully submit that Atkins does not anticipate claim 1. Claim 5 adds additional limitations to claim 1. In rejecting claim 5, the Examiner does not set forth any arguments to remedy the fundamental teaching deficiencies of Atkins. Thus, it is respectfully submitted that Atkins does not further make obvious claim 5.

Accordingly, reconsideration and allowance are respectfully requested.

Conclusion

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

Respectfully submitted,

DORSEY & WHITNEY LLP  
Customer Number 32320

Date: May 23, 2005

By: Devan V. Padmanabhan  
Devan V. Padmanabhan, Reg. No. 38,262  
(612) 340-7990